IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION ST.NO.10013 OF 2004

Chaudhary Yatra Co.Pvt.Ltd. .. Petitioner

Versus

State of Maharashtra & Anr. .. Respondents

Mr.Niranjan P. Shimpi for petitioners

CORAM : A.P.SHAH AND

S.C.DHARMADHIKARI, JJ.

DATE : 15TH DECEMBER 2004.

P.C.

. Petitioner is a company incorporated and registered under the Companies Act, 1956 and it owns about 40 buses all stationed at Nashik. It is carrying on business of arranging tours and travels. It has its corporate office at Nashik.

2. One of the buses of the petitioner

bearing Registration No.MH-15-B-9784 entered Mumbai carrying a marriage party under special permission issued by Nashik Regional Transport office valid upto 8th December 2004.

3. Flying squad of respondent No.2 intercepted this vehicle at Chuna Bhatti. Thereafter, it was detained by the authority. The vehicle was intercepted and thereafter detained because, according to authority, it was plying in Mumbai despite being more than 8 years old.

4. The action was objected by petitioner on the ground that although vehicle is registered on 27th September 1996 and is more than 8 years old, it is not plying in Mumbai. It was contended that the word plyuing in Mumbai connotes regular usage within the Mumbai Municipal limits. It was contended that when the vehicle enters Mumbai with permission from the authorities where it was registered, then it cannot be detained by respondent No.2.

5. Representation of the petitioner was

rejected by a communication dated 10th December 2004 by Regional Transport Office on the ground that the vehicle is more than 8 years old and irrespective of whether it is registered in Mumbai or outside, it cannot be plied in Mumbai city as per the order dated 17th October 2003 in W.P.1762 of 1999. It proceeds to state that if the vehicle is found plying in Mumbai, then the registration is liable to be cancelled. The authorities refused to release the motor vehicle unless the registration is cancelled.

6. Aggrieved by this order and above action of detaining the vehicle petitioner has approached this Court.

7. At the outset, Mr.Shimpi, learned Counsel for petitioner makes a statement that the vehicle in question will not ply in Mumbai. He submits that the petitioner is willing to file an undertaking to this effect in this Court within a period of four weeks from today. However, he also submits that the word "plying" in the Order of Division Benchconnotes a Regular activity.

8. In our view, petitioner having clearly undertaken not to ply the subject vehicle in Mumbai the larger issue of applicability of the order of the Division Bench to such vehicles need not be considered in this case. Hence, the authorities are directed to release the vehicle bearing Registration No.MH-15-B-9784 within a period of eight days from the receipt of copy of this order. Petition is disposed of. All concerned to act on an authenticated copy of this order.

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